

EXHIBIT 5

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

05 CR 001192 (NRB)

5 PHILLIP BENNETT,

6 Defendant.

7 -----x

8 New York, N.Y.
9 February 15, 2008
5:40 p.m.

10 Before:

11 HON. NAOMI REICE BUCHWALD,

12 District Judge

13
14 APPEARANCES

15 MICHAEL J. GARCIA
16 United States Attorney for the
Southern District of New York
17 NEIL M. BAROFSKY
CHRISTOPHER L. GARCIA
Assistant United States Attorneys

18 KRAMER LEVIN NAFTALIS & FRANKEL
19 Attorneys for Defendant
20 GARY P. NAFTALIS
DAVID S. FRANKEL
21 ADAM C. FORD
DARREN A. LAVERNE

22 ALSO PRESENT: WILLIAM JOHNSON, Postal Inspector
23 KRIS MOON, Postal Inspector
ANNE RAILTON, Law Student

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1 that you've been charged with in the indictment?

2 THE DEFENDANT: I did, your Honor.

3 THE COURT: Would you tell me in your own words what
4 you did?

5 THE DEFENDANT: Your Honor, during the period that I
6 served as CEO of Refco, I agreed with other Refco executives to
7 enter into a series of transactions at the end of Refco's
8 financial reporting periods to make it appear as if a
9 receivable due to Refco from Refco Upholdings, Inc., a related
10 party, was instead due from an independent third-party
11 customer.

12 The IGHI receivable was composed of, amongst other
13 things, historical customer losses, bad debts, and expenses
14 that IGHI had incurred on behalf of Refco.

15 I, along with other Refco executives, have caused
16 Refco to enter into these transactions in order to conceal the
17 size and nature of the IGHI receivable. We concealed the
18 receivable from, amongst others, Refco's auditors, Thomas H.
19 Lee Partners, various lenders who, in 2004, participated in
20 Refco's senior secured credit facility, and the issuance of 9
21 percent senior subordinated notes, and also investors in
22 Refco's common stock.

23 Among the lenders to whom I knowingly caused the IGHI
24 receivable to be misrepresented was HSBC Bank, referenced in
25 Count Fifteen of the indictment. I and other Refco executives